

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3453 of 1984

Date of decision: 24.7.96

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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KANAIYALAL DAVASHIRAM SHAH

Versus

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UNION OF INDIA

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Appearance:

1. Special Civil Application No. 3453 of 1984  
MR VC DESAI for Petitioners  
SERVED for Respondent No. 1, 2

ORAL JUDGEMENT

The only contention raised by the learned counsel for the petitioners - Railway Catering Contractors and Vendors Association - is that levy of the increased amount of licence fees with retrospective effect is unjustified and arbitrary. The writ petition is filed by individual railway catering contractors and vendors as well as the association. Challenge has been made to annexure-B under which licence fees has been increased from 1st April, 1979 and further increased from 1-4-1981. The respondents have not filed reply to the special civil application. In absence of reply to the special civil application there is no explanation forthcoming from the respondents to justify the increase of licence fees with retrospective effect. This court has protected the petitioners by granting interim relief in their favour. Earlier on 10th July, 1984 interim relief against retrospective operation in respect of payment of arrears of licence fees was granted and on 20th September, 1984 the interim relief has been modified and it has been ordered that the respondents shall not be entitled to recover the arrears of the increased licence fees from retrospective date. However, the current licence fees from 1-4-1984 was ordered to be paid as per the increased rate. I find sufficient merits in the contention of the learned counsel for the petitioners that the increase of licence fees retrospectively is not justified. In absence of any explanation forth coming from the respondents it is difficult to maintain the increase of licence fees with retrospective effect.

2. In the result this special civil application is disposed of with the direction that the respondents shall be entitled to charge the increased licence fees from the petitioners from 1-4-1984 only. Demand of increased licence fees from 1-4-1979 to 31-3-1984 is declared illegal and arbitrary and the respondents are restrained from recovering the aforesaid amount from any of the petitioners. Rule made absolute in the aforesaid terms. No order as to costs.

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